


IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1946

No.  109

CATHERINE M. O'NEILL, as Administratrix,  
*against* Petitioner,  
CUNARD WHITE STAR LTD.,  
Respondent.

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**PETITIONER'S REPLY TO RESPONDENT'S BRIEF  
OPPOSING PETITION FOR WRIT OF  
CERTIORARI**

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SILAS B. AXTELL,  
Attorney for Petitioner.

RALPH V. CURTIS,  
of Counsel.

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1946

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No. 1445

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CATHERINE M. O'NEILL, as Administratrix,  
Petitioner,  
*against*  
CUNARD WHITE STAR LTD.,  
Respondent.

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**PETITIONER'S REPLY TO RESPONDENT'S BRIEF  
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**POINT ONE**

This case differs from all those relied upon by the respondent in that in none of them where the torts occurred within the territorial jurisdiction of the United States, did it appear important that the respondent itself, the employer-ship owner, resided within the United States.

The Court below, in passing upon the question of discretion only, stated a fact that distinguishes this case from all of those brought under the Jones Act cited by the Respondent in its brief. The Court said (R. 54):

“ \* \* \* it (the defendant) has for many years conducted a large shipping business from New York—as everyone knows— \* \* \* ”

Thus the Court below, at least for a limited purpose, recognized that this case involves a defendant regularly present in the United States and that this is not merely a case of a foreign ship temporarily in United States waters and its owners made thereby incidentally subject to process of United States courts. The Respondent is at all times present and active in this jurisdiction; that is the important distinguishing factor. All the parties are familiars in this land and should not be considered strangers in its courts. However, the Court below failed to carry this concept into its consideration of the merits of the action and thereby erred in non suiting the Petitioner. The Respondent in its argument betrays the same lack in its reasoning.

If this petition is not granted, a rule of law will stand that all foreign shipping corporations operating out of United States ports (often with purchased or leased units of the American Merchant Marine) will be entitled to immunity from the application of the Jones Act as to deaths and injuries occurring on vessels while outside the territorial waters of the United States. The effect of such a rule would be to permit such foreign ship-owners to operate their vessels under a different kind of maritime law than is applicable to American ship-owners to the disadvantage of the latter and to the disturbance of the uniformity of the maritime law as construed and applied in the United States.

Respectfully submitted,

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RALPH V. CURTIS,  
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